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EXAMINER

MEJIA, ANTHONY

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/710,795	<b>Applicant(s)</b> KUMER, GOPESH	
	<b>Examiner</b> ANTHONY MEJIA	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Acknowledgement is made that no amendments and/or additional Claims have been added to the previously presented claims 1-8, 10-19 dated 19 May 2008 and are still pending in the instant application.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie et al. (US 7,289, 623) (referred herein after as Lurie 1) and in further view of Creamer et al. (US 2004/0122941) (referred herein after as Creamer)

Regarding Claim 1, Lurie 1 teaches a method of connecting two parties in real time (col.2, lines 66-67, col.3, lines 1-4, and see fig.1-3), the method comprising:

having a User click on an Internet-based icon to initiate a live conversation with a Service Provider (col.5, lines 11-23, and see fig.3);

generating a pop-up window with information about said Service Provider (col.4, lines 58-67, col.5, lines 1-10, and see fig.3);

checking to see if the Service Provider is available (col.4, lines 1-4 and see fig.3);

connecting said User with said Service Provider if available (col.5, lines 11-23 and see fig.3);

alerting said User if said Service Provider is not available (col.5, lines 46-50 and see fig.3).

Although, Lurie enables said user to communicate with a service provider via email (col. 5, lines 1-3), Lurie does not explicitly teach the step of prompting said user to send an email to the Service Provider if Service Provider is busy or unavailable.

However, Creamer in a similar field of endeavor discloses a method of customized interactive voice response menus including the step of prompting said user to send an email to the Service Provider if Service Provider is busy or unavailable (par [0030]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Creamer in Lurie in order to allow the users of the system to have some form of alternative communication when a service provider is not available or busy. One of ordinary skill in the art would have been motivated to combine the teachings of Lurie and Creamer to help optimize the communications between service providers and their clients.

Regarding Claim 2, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises having said pop-up window prompting said User to enter their phone number to make said connection (col.4, lines 46-54).

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Regarding Claim 3, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises generating a message for said User in said pop-up window when said Service Provider is not available (col.4, line 67, and col.5, lines 1-3, and 46-50).

Regarding Claim 4, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises allowing said Service Provider to enter their hours of availability (col.3, lines 57-62, and col.4, lines 39-45).

Regarding Claim 5, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises displaying said Service Provider's hours of availability within said pop-up window (col.4, lines 39-45, 61-67, and col.5, lines 1-9, lines 43-54).

Regarding Claim 6, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 5 above. Lurie 1 further teaches wherein the method comprises denying said connection if a User tries to initiate a connection during the hours said Service Provider is scheduled to be not available (col.5, lines 43-54).

Regarding Claim 7, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method

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comprises displaying in said pop-up window that said Service Provider is currently busy on another call if said Service Provider is currently on another system call (col.4, lines 39-45, 61-67, and col.5, lines 1-9, lines 43-54).

Regarding Claim 10, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method includes the step of displaying a compensation rate, based on a period of time, for each Service Provider (col.4, lines 39-45).

Regarding Claim 11, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method further includes the step of displaying a text link in said pop-up window to a new popup window displaying Service Providers' profile and history of previous Users' feedback (col.4, lines 39-45, and lines 61-67).

Regarding Claim 12, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises a step wherein the set of Service Providers is provided in response to a category selection (col.4, lines 43-45).

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Regarding Claim 14, the combined teachings of Lurie1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method further comprises the steps of:

setting up an account for the Service Providers (col.3, lines 57-67, and col.4, lines 1-2); and

crediting the account for an amount based upon how long the connection is maintained (col.5, lines 51-54, and lines 62-67).

Regarding Claim 15, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 14 above. Lurie 1 further teaches wherein the method comprises the steps of:

setting up an account for the Service Providers (col.3, lines 57-67, and col.4, lines 1-2); and

crediting the account for an amount based upon how long the telephonic connection is maintained minus a fee (percentage taken) (col.5, lines 51-54, lines 62-67, and col.6, line 1).

Regarding Claim 16, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. Lurie 1 further teaches wherein the method comprises:

setting up a consumer account in the system for the User, wherein setting up the consumer account includes obtaining credit card information from the consumer (col.3, lines 57-67, and col.4, lines 1-2); and

allowing User to make a deposit to their consumer account (col.3, lines 64-65, col.4, lines 9-12, and col.8, line 15).

Regarding Claim 17, the method as described in claim 1, further comprising:  
monitoring how long the telephonic connection is maintained between said User and said Service Provider (col.5, lines 62-67); and

deducting from said User consumer account an amount based upon how long the telephonic connection is maintained (col.5, lines 62-67).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie 1 and in further view of Faber et al. (US 2004/025280) (referred herein after as Faber).

Regarding Claim 8, Lurie 1 teaches the method as described in Claim 1 above. Lurie 1 does not explicitly disclose wherein the method further comprises the step of: displaying in said a pop-up window that said Service Provider is currently busy on another call if said Service Provider is currently on another system call.

However, Faber in a similar field of endeavor discloses a system and method for arranging a call including the step of:



displaying in said a pop-up window that said Service Provider is currently busy on another call if said Service Provider is currently on another system call (par [0053])

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Faber in Lurie 1 in order to properly notify the service seeker of the system that the Service Provider's is temporarily not available. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Lurie 1 and Faber to provide a more user friendly interaction between the users of the system and service providers.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie 1 in view of Creamer and in further view of Lurie et al. (US 7,289, 612) (referred herein after as Lurie 2).

Regarding Claim 13, the combined teachings of Lurie 1 and Creamer teach the method as described in claim 1 above. The combined teachings of Lurie 1 and Creamer do not explicitly teach wherein the method further comprises the step wherein after the connection has ended, prompting said User to provide feedback on said Service Provider regarding the quality of said Service Provider's service.

However, Lurie 2 in a similar field of endeavor discloses an apparatus and method for ensuring a real-time connection between users and selected service-provider using voice mail including the step wherein after a connection has ended, prompting a User to provide feedback on a Service Provider regarding the quality of said Service Provider's service (col.8, lines 21-23, and col.10, lines 59-63).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Lurie2 in the combined teachings of Lurie1/Creamer to enable the users of the system in being able to provide constructive feedback and ratings on their experiences with the services provided by the service providers of the system. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Lurie 1/Creamer/Lurie 2 to help enhance the interaction between the users and service providers of the system.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie 2 in further view of Penfield et al. (US 6,058,173) (referred herein after as Penfield) and in further view of Olshansky (US 6,493,437)

Regarding Claim 18, Lurie 2 teaches a method of informing a User of their allotted connection time to a Service Provider in real time, the method comprising:

extracting User real-time account balance information from System Database (Lurie 2: col.6, lines 54-67, col.7, lines 1-2, and col.10, lines 20-33);

extracting Service Provider per minute compensation rate from System Database (Lurie 2: col.6, lines 54-67, col.7, lines 1-2, and col.10, lines 20-33).

Lurie 2 does not explicitly disclose the steps of:

dividing the User account balance total by the Service provider per minute compensation rate;

determining total minutes said User can connect to said Service provider until said User's account balance reaches zero;

However, Penfield in a similar field of endeavor discloses a real-time rating and debating system including the steps of:

dividing the User account balance total by the Service provider per minute compensation rate (Penfield: abstract, col.1, lines 45-58, col.2, lines 1-11, col.3, lines 55-67, col.4, lines 1-7, and col.6, lines 6-11);

determining total minutes said User can connect to said Service provider until said User's account balance reaches zero (Penfield: abstract, col.1, lines 45-58, col.2, lines 1-11, col.3, lines 55-67, col.4, lines 1-7, and col.6, lines 6-11);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Penfield in the Lurie 2 system in order to properly determine how long a user can connect to a service provider. One of ordinary skill in the art would have been motivated to combine the teachings of Lurie 2 and Penfield to ensure that all calls for a given subscriber does not exceed the available balance on a subscriber's account in real-time (Penfield: col.1, lines 36-43).

The combined teachings of Lurie 2 and Penfield do not explicitly teach the steps of:

displaying this information to said User textually in pop-up window the moment before said User connects to said Service provider; and

displaying a graphical timer in said pop-up window, once said User connects to said Service provider, begins counting down the minutes remaining for the User to be

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connected to the Service provider until said User's account balance is depleted and correspondingly their connection terminated.

However Olshansky in a similar field of endeavor discloses an advertising subsidized PC telephony including the steps of:

displaying this information to said User textually in pop-up window the moment before said User connects to said Service provider (Olshansky: col.1, lines 33-41, and col.5, lines 10-24); and

displaying a graphical timer in said pop-up window, once said User connects to said Service provider, begins counting down the minutes remaining for the User to be connected to the Service provider until said User's account balance is depleted and correspondingly their connection terminated (Olshansky: col.5, lines 26-31).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Olshansky in the combined teachings of Lurie 2/Penfield to provide a graphical interface displaying real-time information of the user's account balance in real-time. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Lurie 2/Penfield/Olshansky to enhance the interaction of the user of the system by providing graphical-interface displaying information of the connection with the service provider in real-time.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie 2 in further view of Penfield in further view of Olshansky and yet in further view of Ling

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(US 5,577,100) (referred herein after as Ling).

Regarding Claim 19, the combined teachings of Lurie 2/Penfield/Olshansky teach the method as described in claim 18 above. The combined teachings of Lurie 2/Penfield/Olshansky do not explicitly teach wherein the method comprises a hypertext link in said pop-up window directing Users to make a deposit to their account.

However, Ling in a similar field of endeavor discloses a system and method for conducting electronic commerce transactions requiring micro payments including the step wherein a hypertext link in said pop-up window directing Users to make a deposit (e.g., add funds) to their account (par [0166], 275, fig.11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Ling in the combined teachings of Lurie 2/Penfield/Olshansky in order to be able to allow the users to have an easily accessible way of being able to add additional funds to their accounts. One of the ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Lurie 2/Penfield/Olshansky/Ling to help satisfy the demand and needs for people that require services such as expert advice from Service Providers that are available on the system.

### ***Response to Arguments***

10. Applicant's arguments filed 04 December 2008 have been fully considered but they are not persuasive. *See Below.*

As to **Claim 1**, applicants argue, that *“the system of the present invention teaches a method and apparatus for ensuring a real time connection between users and service providers requiring the use of a telephone system and voice mail”* (emphasis added).

Examiner fails to see claim 1 requiring use of a telephone system and voice mail.

Applicants further argue that *“in the present invention, the system teaches a method and apparatus for ensuring a real time connection between users and service providers that does not use or offer voice mail and provides an Internet platform that provides transaction settlement functions in addition to the communication”* (emphasis added).

Examiner fails to see claim 1 specifying that the method does not use or offer voice mail and that the method provides an Internet platform that provides transaction settlement functions in addition to the communication. Applicants are advised to introduce argued limitations in the claim in their next response.

As to **Claim 1**, applicants also further argue that *“...the system of Creamer requires and teaches a phone system that uses voice messaging, not a phone system that provides input means for creating an email”*. While it is true that Creamer teaches a phone system that uses voice messaging, it is nowhere claimed that method of claim 1 requires and/or provides input means for creating an email. Thus, applicants' argument is directed towards the unclaimed features of the invention.

Also, in response to applicants' argument that Creamer neither teaches nor suggests *“how email would work or be integrated in the interactive voice response (IVR)*

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*application for use in the telephone systems"*, it is noted that claim 1 fails to provide specificity as to how claimed "prompting said User to send an email to the Service Provider" is integrated. Thus, whether or not Creamer suggests or teaches comparable integration details is irrelevant.

Applicants further argue that *"there is also no teaching or suggestion for the combination of the (IVR) application for use in telephone systems with an Internet-based system used to initiate a live conversation with a Service Provider via a computer or electronic mobile device over the Internet as taught and claimed by the present invention"*. This argument is not persuasive because applicants rely on the limitations that are not presently in the claim. In particular, examiner fails to see the recitation of *"an Internet-based system used to initiate a live conversation with a Service Provider via a computer or electronic mobile device over the Internet"* in the claim. Examiner further fails to see how initiating a live conversation with a Service Provider is in combination with prompting the user to send an email to the Service Provider. At best, prompting the user to send an email to the service provider is an alternative to initiating a live conversation when the service provider is busy or unavailable.

Applicants are reminded that although claims are being read in light of the specification, the limitations from the specification are not being read into the claims. . See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to **Claim 2**, applicants further argue that Lurie teaches *a communications network providing speech communication such as a switched telephone network, but*

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*not a network for making a connection and carrying anything more than speech*

(emphasis added).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *a network for making a connection and carrying anything more than speech*) is not recited in the rejected claim(s).

Applicants are reminded although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As to **Claim 18**, it appears that the applicant is alleging *that the Examiner is applying in hindsight in his analysis and assertion of taking Official Notice to state that earlier invention which taught or used a per-minute feature would have benefited from the method or process of the present invention, but those systems were based on telephone networks and not computer networks that now provide and enable the method and process of the present invention.*

Examiner fails to see claim 18 specifying that the method is solely based on a computer network and not a telephone network. Applicants are advised to introduce argued limitations in the claim further providing specificity that would patentably distinguish a telephone network from a computer network in their next response



As to **Claim 18**, it also appears that the Applicants are making a bald challenge in the assertion made by the examiner in taking Official Notice to state that earlier inventions teach and suggest many billing structures. *Applicants challenge, that although these teachings teach and/or suggest many billing structures, the teachings do not disclose and/or suggest the steps of dividing a User account balance by the Service provider per minute compensation rate because the telephone system taught in the prior art are just **now** using technology to offer service providers private billing controls and users access to compare and calculate time available with respect to a real time account balance for determining total minutes said User can connect to a Service Provider until said User's account balance reaches zero (emphasis added).*

Since Applicants appear to challenge such reliance of the Official Notice, the Examiner had provided a specific reference, Penfield, in place of the Official Notice, presented in this Office Action above.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mejia, Anthony/  
Patent Examiner

/Salad Abdullahi/

Primary Examiner, Art Unit 2457